

**TRANSPORTATION PERMIT EFFICIENCY AND ACCOUNTABILITY COMMITTEE**  
**(TPEAC) MEETING, DECEMBER 10, 2003**  
**COMFORT INN SUITES, TUMWATER, WA.**

**COMMITTEE MEMBERS PRESENT**

*VOTING*

Senator Dan Swecker, Senate Republican Caucus  
\*Senator Margarita Prentice, Senate Democratic Caucus  
\*Representative Phil Rockefeller, House Democratic Caucus  
Representative Doug Ericksen, House Republican Caucus  
Megan White, Washington State Department of Transportation  
Greg Hueckel, Washington State Department of Fish and Wildlife  
Joan McBride, Association of Washington Cities  
Scott Merriman, Washington Association of Counties  
Scott Boettcher, Washington State Department of Ecology

*Non-Voting*

Dan Dixon, Consulting Engineers Council of Washington  
Chris Golightly, Columbia Inter-Tribal Fish Commission  
\*Lynn Childers, U.S. Fish and Wildlife Service  
Darrell Phare, Northwest Indian Fisheries Commission  
Bruce Wishart, Statewide Environmental Group  
Willy O'Neil, Association General Contractors of Washington  
Bryan Flett, Upper Columbia United Tribes  
\* Grant Nelson, Association of Washington Business  
\*Washington State Building and Construction Trades Council

*Invited*

Mike Grady, NOAA Fisheries  
Tom Mueller, U.S. Army Corps of Engineers  
\*Dan Mathis, Federal Highway Administration  
\*Environmental Protection Agency

\*Denotes no representative in attendance

**WELCOME & INTRODUCTIONS**

Senator Swecker called the meeting to order with a brief welcome to attending committee members and guests. Introductions were given around the table.

**APPROVAL OF MINUTES**

Meeting Highlights for the September 10, 2003 TPEAC meeting, prepared by Jessica Jeffreys, were approved as written.

Senator Swecker requested that “meeting minutes” be changed to “Meeting Highlights”. This change will be reflected in the Meeting Highlights for the December 10, 2003 meeting.

**Motion:**

**Motion Accepted to approve highlights as written.**

**TPEAC WORK PLAN**

Megan White (WSDOT) and Peter Downey (WSDOT) presented the TPEAC Work Plan outlining specific streamlining deliverables.

The workplan articulates, tracks, and manages TPEAC’s works in progress. This is intended to be a living document that will reflect changes, new knowledge, and processes that are learned along the way.

The work plan is broken up into five elements:

- 1) Identify and explore various tools to improve regulatory work.
  - WSDOT’s preparation of permit conditions for the eleven pilot projects is a major area of focus under this element.
- 2) Establish standardized environmental requirements for common activities.
- 3) Develop Uniform Standards for certain local permits.
  - Committee is preparing a survey of WSDOT regions and local government to assist with problem identification.
- 4) Improve environmental mitigation.
  - The priority is to obtain positive environmental results with DOT’s mitigation efforts and Watershed works. New techniques are being developed and efforts are being made to up-date current mitigation policy to help achieve WSDOT’s goals.
- 5) Evaluate federal delegation.
  - A six-month reporting requirement for programmatic exists that is not shown in the “Legislative Reporting Requirement” document.
  - Future agendas will be built off this plan.

TPEAC is designed to create paths that will make project processes more efficient. An important function of TPEAC is that we are developing relationships amongst people and agencies to help with problem solving.

**Action Item:**

**Megan requested that comments be directed to her to ensure the work plan is on**

## **HOOD CANAL BRIDGE (HCB) RETROSPECTIVE**

Pasco Bakotich (WSDOT), Patty Betts (Ecology), and Bob Zeigler (DFW) discussed streamlining efforts through the work of the Hood Canal Bridge Interdisciplinary Team.

Jeff Sawyer presented a handout entitled, “WSDOT’s Consultation Responsibilities and Government-to-Government Program for Meeting Requirements of Section 106 of the National Historic Preservation Act.”

### **The MOA, Mitigation Provisions for this Site and this Project necessitated by Section 106:**

Provisions already agreed to:

- Recovery and return of remains to the Tribe.
- Culturally correct and appropriate ceremonies necessitated by discoveries.
- Employment of tribal members in the archaeological work.
- Funding for Tribe’s archaeology and related costs.

Provisions moving well in direction of agreement:

- Interim curation plan.
- Reinterment plan and commitment to acquisition of reinterment site.
- Quality assurance plan for investigation, site work, lab work.

Provisions requiring most sensitive additional discussion:

- Tribal proposal for project to acquire adjoining 18-acre site to protect adjoining area from disturbance, etc. How? When? Who? Cost?
- Construction cost for associated Tribal Resource Center/Museum.

Despite extensive research prior to going to ad, cultural artifacts were found; leading to difficult discussions on how to proceed with the project plan.

Brian Flett commented on the hope for a template for a unified emergency management plan that can be incorporated for all tribes.

Darrell Phare noted that coastal sites are areas where cultural findings are expected; with this in mind, training equipment operators on proper identification of cultural remains would be beneficial. WSDOT is currently pursuing equipment operator training that would focus on identifying cultural artifacts.

### **Panel Discussion on Hood Canal:**

This project was a high priority within WSDOT. Off-line meetings promoted understanding of the project, and its implementations.

One of the challenges encountered was assembling the necessary permit conditions while recognizing that DOT has never built a floating bridge since the Endangered Species Act (ESA) was enacted. Additionally, there exists a need to acquire necessary permits as early as possible; facilitating the topic of pre-submission meetings.

HCB covered two geographic areas and, therefore, required a considerable involvement with Department of Ecology staff.

Areas of discussion:

- 1) Timeline:
  - Interagency Project Team members were pleased with the environmental outcomes.
  - Permits were acquired in a relatively short amount of time, especially for the growing dock.
- 2) Value of interagency team process:
  - Prompted accountability.
  - Avoided conflicting conditions.
  - Increased understanding and interagency trust.
  - Development of new tools that were not available previously.
- 3) Daily information and quality:
  - Data needs were identified earlier in the process.
  - Better tracking tools were developed.
- 4) Early Involvement:
  - Better buy-in to outcomes (saves time and money).

Hood Canal was a very complex project with little scheduled time; a modified Dispute Resolution Process was established to help deal with arising issues.

Interagency Project Team learned from this process:

- 1) Interagency Project Teams are very helpful tools
- 2) The earlier Interagency Project Teams are developed the better
- 3) There is a benefit to all to have the permit writers and issuers meet together
- 4) Participation of the tribes – either directly or off-line is necessary

Ten recommendations were drawn from this process and are listed within “TPEAC Pilot Projects Interdisciplinary Team Questionnaire Report: SR 104 Hood Canal Bridge Project and SR 24 I-82 to Keys Road Project”.

Interagency Project Teams are both coordinating bodies and decision-making bodies. Decisions are made within the team or delegated to outside groups possessing specific expertise. Ultimately, however, policy-changing decisions are reserved for management within each respective agency.

Tribes are invited to attend meetings and have been in attendance.

The Interagency Project Team would like to further test tools and concepts that have been developed.

## **2003/2005 BUDGET STATUS**

Peter Downey presented changes to the current budget

This current budget reflects the difference between the approved budget of June 2003 and what has been obligated to-date.

Budget overruns with WDFW, Ecology, and NWIFC were compensated with savings under:

- 1) U.S. Army Corps of Engineers as they did not need additional funding for participation within the programatics (savings of \$75,000 to TPEAC budget).
- 2) WSDOT was able to postpone hiring and reduced training costs (savings of \$199,990 to TPEAC).
- 3) Consultant Services have been allotted \$20,000 less than previously budgeted.

Bottom line: June Approved Budget is under run by \$89,630.

There is a proposal to spend \$51,000 on further up-dating/integrating the NWIFC - SSHIAP databases (SSHIAP is intended to be used as a baseline for both Ecology and DFW for permitting decisions). Currently, the database is not equipped to work within the TPEAC process; data will be added and tailored to the needs of TPEAC. This tool has the potential to add to the efficiency of permitting projects between agencies.

Rep. Erickson commented on the responsibility to use these funds complimentary to their constitutional purpose (for auditing purposes).

Currently, there are only federal dollars funding the SSHIAP program. TPEAC recognized the need to ascertain whether or not they are the only source of funding.

### **Action Item:**

**Senator Swecker directed Peter Downey to poll the voting members after they had a chance to review the NWIFC's proposal.**

## **WSDOT PROPOSING TERMS AND CONDITIONS**

Jason Smith (WSDOT), Peter Birch (WDFW), and Scott Boettcher (Ecology) discussed approach, and received feedback on WSDOT proposing permit terms and conditions.

Incrementally improving permit applications has been the goal of WSDOT's South Central Region for several years, and is outlined by the following steps:

- 1) Send out pre-notification for JARPA application approximately 2 to 3 weeks in advance of application so agencies can schedule their time. The potential field review timeline would also be provided for scheduling.
- 2) Pre-Application Stage
- 3) Submit Final JARPA Application with Draft Permits Conditions

- 4) Application Completeness Review
- 5) Permit Decisions
- 6) Process Review

The focus has been to find a balance between scope, budget, and time. The goal is to propose an out-lined application process that allows resource agencies to reasonably predict their turn-around time for permits. Because projects vary in complexity, permitting conditions need to be scalable; creating predictable processes and timelines.

Scott Boettcher stated that an on-line database is being built around the JARPA that details how to fill out a JARPA. The applicant will be able to click on a particular cell to determine what is specifically being sought, and how to characterize impacts. The on-line JARPA also provides specific language from other JARPA examples on how a particular question was answered previously.

This information can be submitted immediately – allowing for future scalable information. There will be examples of how to correctly and consistently fill out a JARPA for both large and small-scale projects.

Standardization and greater consistency across the state can result from the use of this process. Utilizing this tool will allow an applicant and agency to apply for the permit at the same time, instead of one before the other.

Peter Birch stated that WDFW is trying to develop custom files (provisions for a specific type of work that has been approved in the past). This is information that can be drawn upon by applicants in the future. Information would be made available on-line similar to the JARPA database.

Because the JARPA is not universally accepted, how much of a problem is that towards getting standardization?

Typically, when dealing with a jurisdiction that does not deal with JARPA, you rely on customization. This would equate to an additional layer in the application process. In that instance, the information would go to that jurisdiction only and would not need to be sent to other resource agencies.

Bruce Wishart stated that we are all in favor of standardization, however, independent review by the regulatory agencies is a different issue. Are there adequate resources to conduct a proper review? Federal agencies do not always have the resources to do this.

Section 106 review occurs early on the process. The components that effect construction have already occurred.

## **PROGRAMMATIC SUBCOMMITTEE**

Peter Downey (WSDOT) and Gregor Myhr (WSDOT) provided an overview of programmatic permit work conducted by WSDOT and resource agencies. They also updated the committee on the status of programmatic work directed by TPEAC legislation.

Status Report on Programmatic Subcommittee Work on Overwater Structure Maintenance and Repair Activities. This document reports on the Programmatic Subcommittee's effort to develop multi-agency programmatic permit coverage for Overwater Structure Maintenance and Repair Activities.

### **Next Steps:**

- Ecology will issue the final NPDES permit during the first week of December for 30 days public comment. Following the public comment period the permit will become final.
- WSDOT will fulfill monitoring and reporting requirements associated with use of the permit.

Local governments can use this programmatic as long as they meet the required terms and conditions. Washington Cities anticipates that they could use this programmatic for approximately 40% of their related bridge projects.

The issue over fish passage in a culvert replacement is still being discussed. Ecology is uncomfortable with current standards and would like additional time to further develop standards.

### Status Report on Programmatic Subcommittee Work on Drainage Maintenance Activities.

This document reports the subcommittee's effort to develop multi-agency programmatic coverage for drainage maintenance work.

### **Next Steps:**

- The Subcommittee expects to incorporate comments received into the final Agreement by mid-December.
- Permit agencies will issue programmatic permit coverage for activities covered in the Agreement activity categories. Ecology expects to revise the Water Quality Implementing Agreement. The Corps expects to establish regulatory guidance regarding clarifying that the majority of these activities are exempt from a Nationwide Permit.

## **LEGISLATIVE REPORTS DUE DECEMBER 2003**

Subcommittees updated the committee on what will be presented to the legislature.

**TPEAC**, presented by Peter Downey;

TPEAC reports are attached to the meeting handouts.

### **Local Ordinance Task Force**

Presented by Patty Lynch (WSDOT) and Scott Merriman (WSAC)

- December 31, 2003: The task force will submit a progress report and report the status to the legislature.
- December 31, 2004: Shall conclude its work and report its final recommendations for review to the legislature (Sec. 2 (6)).

Local government task force also includes Patty Betts (Ecology), Brian Hasselbach (WSDOT), and Ashley Probart (AWC).

Over the past several months, the task force has been talking with a wide variety of offices within WSDOT regarding permit acquisition. WSDOT identified the following issues:

- 1) Consistency in Exemptions regarding shorelines
  - a. WSDOT would like a programmatic approach, dealing with exemptions, for routine maintenance activities.
- 2) Consistency in Noise Variances
  - a. Need to work with the local government to standardize noise variance ordinances.
  - b. Need to provide training to local government staff; ensure that all involved are equally knowledgeable.
- 3) Consistency with the use of JARPAs
  - a. More research is needed to ascertain which jurisdictions do not use JARPA and why.
  - b. Determine if there is hope for future use of JARPAs by those jurisdictions that currently do not use JARPA.
- 4) It would be helpful if WSDOT were able to access to local permits on-line.
- 5) WSDOT could improve its ability to coordinate agency wide comments, and review of Local Growth Management Plans.

#### **Next Steps:**

The task force will be interviewing Local governments to discover their needs for environmental streamlining.

### **Pilot/One-Stop**

Presented by Shari Schaftlein (WSDOT) and Dan Dixon (CECW);

December 31, 2003: The committee shall provide a status report to the legislature, and shall also identify barriers and opportunities to achieve a concurrent public review process, concurrent public hearings, and a unified appeals process for one-stop permitting (Sec. 2, (1)(c)).



### **SIGNATORY ADVISORY COMMITTEE (SAC)**

Phil KauzLoric (WSDOT) provided an annual status update.

The purpose of the Signatory Agency Committee Agreement is to integrate aquatic resource permit requirements into the NEPA process to improve and streamline transportation project delivery and provide increased environmental protection. The SAC agreement currently applies to transportation projects requiring a National Environmental Policy Act (NEPA) EIS and individual Corps of Engineers Section 10 or 404 permit.

Detailed performance measures were outlined in the meeting materials packet.

Additional SAC process improvements being developed are also noted in the meeting materials packet.

### **MITIGATION IN BANKING LEGISLATION**

Jay Udelhoven, Assistant Division Manager, Aquatic Resources Division for the Washington State Department of Natural Resources (DNR) presented DNR's proposed legislation on mitigation banking.

DNR believes they have the authority to act as the long-term site manager, however, they lack funding. Therefore, DNR requests the legislature allow an endowment fund for compensatory sites.

DNR has a role to look at and identify where the needs and opportunities are for mitigation, and develop large-scale habitat mitigation sites. However, DNR does not have the authority to buy or sell mitigation banking credits at market value. DNR is requesting that they be given this authority.

DNR does not envision the need to ask for additional funds for the pilot. However, DNR may have to requests funds for future pilots, though pilot banking absorbs most of the cost. DNR would be responsible for the maintenance and up-keep of these mitigation sites.

### **POTENTIAL LEGISLATION**

Senator Swecker reviewed two pieces of potential legislation for the 2004 legislative session.

The first bill would allow coordination of permit timing. This bill will give authority to the agencies to schedule timing, provided that time periods may not be less than as required by existing statute. This may allow for public comment to coincide more frequently.

Ideally, this legislation will ensure that all agencies have the same time frame for permitting. With this legislation, permitting times are only increasing for any given agency.

The second bill refers to the issue of appeal timing. Section 1 authorizes Fish and Wildlife to issue general permits. Section 2 authorizes local governments to issue general permits. Granting authority for Fish and Wildlife or local governments to issue general permits provides the opportunity for a more effective and efficient process.

Bruce Wishart stated that these are concepts the Environmental community is willing to accept. However, he noted that when general permits are issued they lose comment and appeal opportunity.

There is a need for continued discussion on this topic.

#### **DISCUSSION ON FUTURE TPEAC MEETING DATES**

Peter Downey presented the committee with proposed meeting dates for 2004, as shown below:

- March 24, 2004 – Olympia (or the following week)
- June 9, 2004
- September 8, 2004
- December 8, 2004

Rep. Erickson recommended that meetings be moved to the third Wednesday of every month.

#### **PUBLIC COMMENT**

No public comment

#### **REVIEW OF ACTION ITEMS AND DELIVERABLES FOR NEXT TPEAC MEETING**

Action Items:

- TPEAC to forward comments on TPEAC Work Plan to Megan for final editing
- Peter to write up specifics and clarification to be disseminated to committee members regarding the NWIFC - SSHIAP databases and then poll voting members as to their support.
- Linda Healy will follow-up with request to move TPEAC meetings to the third Wed. in the month and inform committee of final decision

Deliverables:

- Watershed Subcommittee will be presenting
- Pilot/One-Stop will be presenting their recommendations

#### **CLOSING AND ADJOURNMENT**

Senator Swecker closed and adjourned meeting.